

Regular Session, 2012

SENATE BILL NO. 217

BY SENATOR CROWE

DISCRIMINATION. Provides relative to discrimination regarding certain public contracts including the limitation of categories for nondiscrimination purposes. (gov sig)

AN ACT

To amend and reenact R.S. 38:2315 and to enact R.S. 38:2183 and R.S. 39:1553.1, relative to equal employment in certain public contracts; to prohibit employment discrimination on the basis of race, religion, national ancestry, age, sex or disability; to provide for the inclusion of certain language in public contracts; to prohibit certain designations not provided for in law; to provide exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2315 is hereby amended and reenacted and R.S. 38:2183 and R.S. 39:1553.1 is hereby enacted to read as follows:

§2183. Equal opportunity

A. Except as provided by this Chapter, every person shall be guaranteed equal employment opportunities in the selection of persons for public contracts pursuant to this Chapter.

B. Public contracts shall not discriminate against any person because of race, religion, national ancestry, age, sex, or disability.

C. (1) No public entity, in the selection of a person to award a public

1 contract, shall discriminate against any person because that person is a member
2 of a category designated in Subsection (B) of this Section.

3 (2) No person awarded a public contract shall discriminate in the
4 rendering of services to, or employment of, an individual because that
5 individual is a member of a category of persons designated in Subsection (B) of
6 this Section.

7 D. Except for the categories provided for in Subsection (B) of this
8 Section, no category of persons or factors shall be designated in any non-
9 discrimination clause in any public contract.

10 E. (1) Every contract and bidding document shall include a statement
11 advising that, by signing the contract, the contractor shall not discriminate in
12 the rendering of services to, or employment of, individuals to perform the work,
13 or to provide materials, supplies, or services pursuant to the contract, who are
14 members of a category designated in Subsection (B) of this Section.

15 (2) No contract or bidding document shall include any language that
16 designates any category of persons or factors for non-discrimination unless such
17 category or factor is designated in Subsection (B) of this Section.

18 F. Nothing in this Section shall be construed to nullify or supersede any
19 preference in law for veterans of the military or military service men or service
20 women.

21 G. Nothing in this Section shall be construed to nullify or supercede any
22 minimum requirement related to education, licensure, or other vocational
23 standards.

24 * * *

25 §2315. Equal opportunity

26 Every person shall be guaranteed equal employment opportunities in the
27 selection of persons for professional services and ~~such selection of persons for~~
28 ~~professional services and~~ such selection shall not discriminate against any person
29 because of race, religion, national ancestry, age, sex, or ~~physical condition~~ disability.

1 If any ~~Any~~ person or persons who violates the provisions of this ~~section, they~~
2 Section, shall be subject to the same penalties as provided in R.S. 38:2314(A).

3 Section 2. R.S. 39:1553.1 is hereby enacted to read as follows:

4 **§1553.1. Equal opportunity**

5 **A. Except as provided by this Chapter, every person shall be guaranteed**
6 **equal employment opportunities in the selection of persons for procurement**
7 **pursuant to this Chapter.**

8 **B. Procurement contracts shall not discriminate against any person**
9 **because of race, religion, national ancestry, age, sex, or disability.**

10 **C. (1) No governmental body, in the selection of a person for a**
11 **procurement contract, shall discriminate against any person because that**
12 **person is a member of a category designated in Subsection (B) of this Section.**

13 **(2) No person awarded a procurement contract shall discriminate in the**
14 **employment of an individual because that individual is a member of a category**
15 **of persons designated in Subsection (B) of this Section.**

16 **D. Except for the categories provided for in Subsection (B) of this**
17 **Section, no category of persons or factors shall be designated in any non-**
18 **discrimination clause in any procurement contract.**

19 **E. (1) Every contract, invitation to bid, or request for proposal pursuant**
20 **to this Chapter, shall include a statement advising an applicant that, by signing**
21 **the contract, bid document or proposal, the applicant agrees that the applicant**
22 **will not discriminate in the employment of individuals to perform the work or**
23 **to provide materials, supplies, or services pursuant to the contract who are**
24 **members of a category designated in Subsection (B) of this Section.**

25 **(2) No invitation to bid or request for proposal pursuant to this Chapter,**
26 **shall include any language that designates any category of persons or factors for**
27 **non-discrimination unless such category or factor is designated in Subsection**
28 **(B) of this Section.**

29 **F. Nothing in this Section shall be construed to nullify or supersede any**

1 **preference in law for veterans of the military or military service men or service**
2 **women.**

3 **G. Nothing in this Section shall be construed to nullify or supercede any**
4 **minimum requirement related to education, licensure, or other vocational**
5 **standards.**

6 Section 3. The legislature finds all of the following:

7 A. According to Article III, Section 1 of the Constitution of Louisiana, the
8 legislative powers of the state are vested solely in the legislature.

9 B. The terms of certain public works, purchasing and professional services and
10 procurement contracts executed by the various public entities must adhere to state statute.

11 C. It is further the role of the legislature to appropriate taxpayers' monies to pay the
12 debts and obligations of state government as well as any final judgments rendered against
13 the state by the courts.

14 D. When a state agency or other state entity arbitrarily imposes restrictions on
15 categories of persons or creates categories of special consideration, outside of the deliberate
16 and public process of legislative enactment, that state agency or other state entity exposes
17 the state to litigation and potential liability for which the legislature has not planned nor
18 budgeted. Such action on the part of such state agency or other state entity puts the state's
19 fisc at potential risk.

20 Section 4. The purpose of this Act is to insure that all requirements which a public
21 entity includes in their public works, purchasing, or professional services and procurement
22 contracts are consistent with law.

23 Section 5. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Present law provides that every architect, engineer, or landscape architect shall be guaranteed equal employment opportunities in the selection of persons for such professional service contracts such selection shall not discriminate against any person because of race, religion, national ancestry, age, sex, or physical condition. Provides that the contract may be terminated without liability and public entity may deduct from contract price or otherwise recover full amount from contractor if contractor violates present law.

Proposed law retains present law but changes "physical condition" to "disability."

Proposed law provides that every person shall be guaranteed equal employment opportunities in the selection of persons for public contracts for public works or for the purchase of materials or supplies.

Proposed law provides that no public entity, in the selection of persons to award such public contracts, shall discriminate on the basis of race, religion, national ancestry, age, sex, or disability.

Proposed law provides that no person awarded such a public contract shall discriminate in the rendering of services to, or employment of, an individual on the basis of race, religion, national ancestry, age, sex, or disability.

Proposed law provides that, except for the categories of race, religion, national ancestry, age, sex, or disability, no category of persons or factors shall be designated in any non-discrimination clause in any public contract.

Proposed law requires that every public contract and bidding document shall include a statement advising that, by signing the contract, the contractor shall not discriminate in the rendering of services to, or employment of, individuals on the basis of race, religion, national ancestry, age, sex, or disability.

Proposed law provides that no public contract or bidding document shall include any language that designates any category of persons or factors for non-discrimination unless such category or factor is listed in proposed law.

Proposed law shall not be construed to nullify or supersede any preference in law for veterans or service men or service women.

Proposed law shall not be construed to nullify any requirements related to education, licensure or other vocational standard.

Proposed law states the following legislative findings:

1. The La. Constitution provides that the legislative powers of the state are vested solely in the legislature.
2. The terms of public works, purchasing, and professional services and procurement contracts executed by the various public entities must adhere to state law.
3. It is further the role of the legislature to appropriate taxpayers' monies to pay the debts and obligations of state government as well as any final judgments rendered against the state by the courts.

4. When a state agency or entity arbitrarily imposes restrictions on categories of persons or creates categories of special consideration, outside of the deliberate and public process of legislative enactment, that state agency or other state entity exposes the state to litigation and potential liability for which the legislature has not planned nor budgeted. Such action on the part of such state agency or other state entity puts the state's fisc at potential risk.

Proposed law states that the purpose of the proposed law is to insure that all requirements which a public entity includes in its public works, purchasing or professional services and procurement contracts are consistent with law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 38:2315; adds R.S. 38:2183, and R.S. 39:1553.1)